

REMARKS

Claims 1-20 have been rejected under 35 U.S.C. 102(b) as anticipated by Li, et al., U.S. Patent Nos. 5,977,163 and 6,262,107 (hereinafter the "'163" and the "'107" patents respectively). Although not pointed out in the Office action, since the '107 patent issued from a continuation of the '163 patent, the specifications of these two patents are presumed to be identical. Thus, for purposes of conciseness, Applicant will address each of these rejections together.

The position of the Patent Office is that the '163 and the '107 patents teach compositions of paclitaxel formed by conjugating paclitaxel to a polymer such as poly-L-glumatic acid. In the view of the Office, each of these patents anticipates the claims because they both teach that other therapeutic agents could also be conjugated to an amino acid. Applicant respectfully traverses the rejections because neither of the two cited references teaches any one of the claimed methods.

A claimed invention is anticipated only if all of the claimed elements are shown in a single prior art reference. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Thus, to be anticipatory, the prior art must describe the exact composition.

Pursuant to the response to the election of species requirement, claims 1-12 are being examined to the extent that they read on the elected species of additional chemotherapeutic agent, namely vinorelbine. Claims 13-20 on the other hand, also require administration of carboplatin or cisplatin. There is no disclosure in either of the '163 or '107 patents of vinorelbine, carboplatin or cisplatin. The Office might be correct in its determination that these references teach that therapeutic agents other than paclitaxel can be conjugated to polymers (see, e.g., col. 2, ln. 56 - col. 3, ln. 4 in the '163 patent).

However, the claims do not require a vinorelbine-polymer conjugate. The disclosure in col. 3, lns. 5-13 of the '163 patent teaches that the water-soluble paclitaxol conjugates may be administered in conjunction with other drugs, including other anti-tumor or anti-cancer drugs, or combined with a platinum drug. There is no specific disclosure in either of these cited references, however, of a therapy for the treatment of cancer comprising administering to a patient in need thereof a polymer-taxane conjugate and vinorelbine, or in the case of claims 13-20, the polymer-taxane conjugate in combination with carboplatin or cisplatin (and in connection with claim 15, the further administration of vinorelbine). None of claims 1-20 is anticipated. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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